

## Remarks

### Amendment to the Specification:

As requested by the Examiner, the updated issued patent number for Serial No. 10/300,649 has been updated to the specification. No new matter has been added.

### Response to Examiner's Inquiry Regarding Inventorship and Ownership (37 CFR 1.56)

This '117 CIP application claims priority to U.S. Serial No. 10/300,649; both the '649 and '117 inventors are Ms. DayNa Decker and Mr. Steven Dodson. Regarding ownership, both the '117 and '649 applications have been assigned to Lumetique, Inc. These assignments are recorded at the USPTO, and if the Examiner requires, copies of the recorded assignment documents will be provided.

### Response to Claim Rejections – 35 USC 102(b) and 103

In the July 13, 2007 Office Action, Claims 1, 4-6, 9, 13, 30, 24-28, 30-33, 40-45 and 57-60 were rejected under 35 USC 102(b) as being anticipated by US001190219 (Chadwick) or US002758460 (Ciano). Claims 24, 32, 33, 41 and 45 were rejected under 35 USC 102(b) as being anticipated by US001050913 (Bradfield).

Also, the Examiner rejected Claims 2, 3, 7, 8, 10-12, 14-23, 29, 34-39, 46-56 and 61-84 under 35 USC 103(a) as being unpatentable over US001190219 (Chadwick) or US002758460 (Ciano) or US001050913 (Bradfield).

In response to the 102 and 103 rejections, the applicant has canceled claims 1-84 without prejudice and submits new claims 85-123. In presenting these new claims, the applicant believes that there is proper antecedent basis in the specification and/or drawings to establish that no new matter has been added.

### Claims Number and Fees

Please note there are presently four new independent claims (85, 100, 113, and 121) and a total of 38 new claims. Since the applicant has already paid for 84 total claims and five total independent claims, the applicant believes that no additional fees for claims are due.

### New Claims 85-99:

The applicant believes new Claims 85-99 are patentable over the Examiner's cited prior art because the prior art does not teach the applicant's Claim 85 element: **"the removable cover having a first and a second air hole opening, the first and the second air hole openings are oppositely oriented and at the cover ends; and the removable cover having a third air hole opening, which is adjacent to and substantially surrounds the opening for the sheet wick."** (emphasis added).

Looking at the Kranc reference (US2775006), this candle patent discloses very different structure than an oil lamp and does not teach every element of applicant claim 85, specifically, there is no air hole opening, which is adjacent to and substantially surrounds the opening for the sheet wick or candle in case of Kranc.

Kranc states its purpose is to provide a vaporizing unit of a size to fit within the upper portion of an open-topped bowl or jar having a candle in its lower portion to supply the heat necessary for vaporization of material in the vaporizing unit. See Kranc, Col. 1, lines 23-28.

"[T]he vaporizing unit is annular to provide an upright central flue in vertical alignment with candle wick to conduct hot gases from the candle flame upwardly out of the apparatus, and wherein **the vaporizing unit is held spaced from the surrounding walls of the jar so that such upward flow of hot gases through the flue induces a downward flow of air into the jar**

**through the space around the exterior of the vaporizing unit, to supply combustion air to the flame of the candle.”** Kranc, Col. 1, lines 28-38. (emphasis added).

Looking at Fig. 1 of Kranc, there is an opening on surface 16 of chamber 12 for the underlying candle flame and apertures 21 on the periphery of ring 19, but there is no separate opening that substantially surrounds the central opening and is adjacent to the central opening. And, looking at the stated purposes of Kranc (use the hot gases from the candle to heat the vaporizing chamber 12 and to push a downward flow of air into the jar through the space around the exterior of the vaporizing chamber 12) and Fig. 1-3 of Kranc, Kranc’s structure makes it impossible to place a third opening on surface 16 because **the vaporizing chamber 12 physically surrounds and defines the centrally vertical flue (see Fig. 1) and effectively blocks any access to the candle chamber.**

Further, Kranc places a separate disposable vaporizing unit 12 within the candle chamber with a very small orifice 17 in order to cause a substantial vapor pressure to be generated in the container 12 so that the vapor will be blown out of the container with some force and promoting diffusion in the air to be treated. (Kranc, Col. 3, lines 1-8). This orifice 17 must be small in order to allow substantial vapor pressure to be generated.

Also, in other embodiments disclosed in Kranc, a disposable version of the vaporizing unit 12 is actually sealed in the factory to keep the contents within the container until desired use. See Kranc, Col. 3, lines 36-42. As a result, Kranc does not teach a third opening adjacent and substantially surrounding the central opening.

For proper antecedent basis for new independent claim 85 for the air holes for the removable cover for the oil lamp, please see Fig. 1 and Fig. 4 (reference no. 34) and Paragraph 0062 on pages 10-11 of the specification, which states:

“The lamp 10 further includes **one or more holes 34** on the top surface 30 of the body 12 to allow for the filling and refilling of a liquid upon depletion. In the preferred embodiment, the holes are located at one or both ends of the horizontal alignment of the wick 16. The holes also promote the release of fragrance to the environment when the lamp contains a scented liquid.” (emphasis added).

New Claims 100-112:

The applicant believes new Claims 100-112 are patentable over the Examiner’s cited prior art. The cited prior art does not teach the applicant’s Claim 100 element: “the first plate is a planar sheet and has **substantially more surface area than the second plate**; the second plate has a first leg and a second leg; **the first leg is vertically aligned with respect to the horizontally aligned second leg**; **the first plate is joined to the second plate along an outer edge of the first leg of the second plate**.” The cited references do not teach a second plate with a first leg and a second leg as stated in Applicant’s Claim 100.

For proper antecedent basis for new independent claim 100 for the first and the second leg of the second plate, please see Fig. 9-12 and the specification pages 11-12 for Paragraphs 0065-0066.

New Claims 113-120:

The applicant believes new Claims 113-120 are patentable over the Examiner’s cited prior art. The prior art does not teach the applicant’s Claim 113 element: “the heat and fragrance releasing holes are oriented substantially perpendicular to the open upper end of the container.”

The cited references do not teach perpendicularly oriented ledge air releasing holes as stated in Applicant's Claim 113.

In particular, Kranc (US2775006) does not show any air releasing holes in the ledge at such a substantially perpendicular orientation to the open end of the container; Kranc only teaches air holes parallel to the opening of the container. Further, Kranc teaches against any kind of perpendicularly oriented air holes.

a. Because Kranc teaches the need to build up pressure within the vaporizing unit 12, there cannot be any perpendicularly oriented holes in the vaporizing unit 12, which would release the desired pressure.

**"In one form of the invention, that employing a disposable vaporizing unit, the container has an annular cover 16 permanently closing its top, and vapor is expelled from the unit through one or more restricted orifices 17 in this closure or top wall, the orifices being sufficiently being sufficiently small to cause a substantial vapor pressure to be generated in the container so that the vapor will be blown out of the container with some force, promoting its diffusion in the air to be treated."** See Kranc, Col. 3 (lines 1-8) and Fig. 1-3 of Kranc and Part No. 17. (emphasis added).

b. Since the material in Kranc's vessel 12 is a volatile and burnable material such as fragrance or perfume, Kranc's particular structure of placing vessel 12 within the body of the candle 4, Kranc teaches against any air openings perpendicular to the opening of the apparatus.

Rather, Fig. 2 of Kranc suggests moving any volatile material from vaporizing unit 12 upwards and outward through some holes parallel (and far away from the center of the center opening) to the vessel opening and not perpendicular or sideways. Viewing air flow arrows in

Fig. 2 and based on Kranc's vaporizing chamber 12 fitting within the candle chamber, if there were perpendicular openings in Kranc's vessels 12, any volatile material would be pushed downwards back into the candle and consumed by the candle flame in the main chamber. It would not make any sense to have a perpendicularly oriented opening for the vaporizing unit 12 to release any fragrance vapor into the path of the downward airflow into the candle to be burned and destroyed.

c. Refillable version of the Kranc product teaches against any perpendicularly oriented holes on the vaporization unit 12.

Kranc states: "Suitable annular gaskets 29 and 30, on the upper edges of the upright inner and outer walls respectively, prevent leakage of the contents during shipment and/or handling of the container prior to its installation in the candle bowl." Kranc, Col. 4, lines 5-10. As a result, because Kranc makes efforts to keep the unit 12 sealed until use, there is no suggestion or teaching for perpendicularly oriented holes on the ledge of the apparatus.

For proper antecedent basis for new independent claim 113 for the air releasing holes, please see Fig. 14 and Fig. 15 (ref. no. 176) and the specification pages 12 for Paragraph 0067, which states: "[a]ir holes 176, as similarly shown in Fig. 14, for example are provided to release heat and fragrance."

#### New Claims 121-123:

The applicant believes new Claims 121-123 are patentable over the Examiner's cited prior art. The prior art does not teach the applicant's Claim 121 elements: "the removable cover having a first and a second air hole opening, the first and the second air hole openings are

oppositely oriented and at the cover ends; and **the removable cover having a third air hole opening, which is adjacent to and substantially surrounds the opening for the sheet wick.**”

Looking at the Kranc reference, this candle patent discloses very different structure than an oil lamp and does not teach every element of applicant claims 85 and 121. Kranc claims to provide a vaporizing unit of a size to fit within the upper portion of an open-topped bowl or jar having a candle in its lower portion to supply the heat necessary for vaporization of material in the vaporizing unit. See Kranc, Col. 1, lines 28-38.

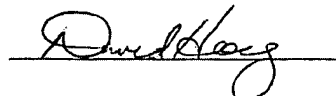
Looking at Fig. 1 of Kranc, there is an opening on surface 16 of chamber 12 for the underlying candle flame and apertures 21 on the periphery of ring 19, but there is no separate aperture that substantially surrounds the central opening and is adjacent to the central opening.

Looking at the stated purposes of Kranc (use the hot gases from the candle to heat the vaporizing chamber 12 and to push a downward flow of air into the jar through the space around the exterior of the vaporizing chamber 12) and Fig. 1-3 of Kranc, Kranc’s structure makes it impossible to place a third opening on surface 16 because the vaporizing chamber 12 surrounds and defines the centrally vertical flue (see Fig. 1).

For proper antecedent basis for new independent claim 121 for the air holes for the removable cover for the oil lamp, please see Fig. 1 and Fig. 4 (reference no. 34) and Paragraph 0062 on pages 10-11 of the specification. Based on the above remarks, consideration of the newly submitted claims is respectfully requested.

Respectfully Submitted,

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